G. R. S. App. F. IX-4]

1942

File No. 2 - 42

Previous References.

(Pers)

Serial Nos. 24

Later References.

PRESERVED

GENERAL AND REVENUE SECRETARIAT

Serial Nos. One

Part B for October 1942

SUBJECT.

Recommendations 30 and 31 of the Prison Reforms Committee regarding the definition of "Habitual Criminals"

G.O. No. P. 25 80-90 dated 6.10.1942

To.

The I-G. of Prisons in Mysore.
" Registrar, High Court of Mysore.
" Deputy Commissioners of Districts.

Passes orders in respect of the ——

Ja
24.12.42

3824/41 P

C 1114 41-42

Prison Reforms — Habitual Criminals — Definition

General and Revenue Secretariat | File No. | of 194 | [App. F. III—2

Serial No.

Rules 203 of our jail manual defines who are to be deemed as habitual criminal. The classification of a prisoners as a habitual criminal according to this rule is to be carried out by the convicting court, or owing to failure to do so by the District Magistrate and if neither the convicting court nor the District Magistrate has exercised their discretion by the Superintendent of the jail, subject to the control of the Dist. Magte. A prisoner is to be classed as a habitual criminal if he is —

a) sentenced, or believed to be liable to punishment, under section 75 of the I.P.C. (This section provides for the award of enhanced punishments for offences under chap XII, offences relating to coins and Govt. stamps, or chap XVII, offences against property, after previous conviction)

b) under sentence enhanced by reason of more than one previous conviction;

c) known to have been repeatedly imprisoned for similar offences; or

d) a member of a criminal tribe. X

2) The Jail Prison Reforms Committee point out that according to this rule the classification of a prisoners as a Habitual criminal

X This rule is identical in language with the old Madras Rule 216.

NOTE—Contn. Sheet.

WD 04155—GPB—55,000—23-10-41

Serial No.

depends more or less on the fact of a previous conviction followed by enhanced punishment or on the undergoing of repeated punishments, and has no reference to whether or not the offender is by habit a criminal or an associate with criminal gangs.

3/ Previous conviction by itself does not, in the opinion of the Committee justify a man's classification as a habitual without consideration of the nature of the crime previously committed, the age of the offender at the time, and the likelihood of his repeating or persisting in criminal acts. The Committee are further of opinion that convictions under special or local laws should not be taken into account for purposes of such classification and the mere fact that a person is a member of criminal tribe and comes into jail should not, without further evidence of previous crime, be automatically be taken to classify him as a habitual. (Vide Para 24 of Chapter III)

4/ The Committee suggest that in place of our existing rule 203, the amplified definition contained in Rule 216 of the Madras Prisons and Reformatory Manual which is

Serial No.

better and more comprehensive may be substituted. They further suggest that any prisoner, before he is classified as a habitual, should have a reasonable opportunity of knowing the grounds on which such classification is proposed and of showing cause to the contrary. The Committee point out that the British Indian Rules specially entitle any person affected to apply for a revision of the orders of the classifying authority.

5) The I.G. of Prisons suggests that as recommended by the Committee Rule 216 of the Madras Jail Manual may be substituted for our existing rule, and that Rule 214 provides for the revision of the order of the classifying authority at the instance of the person affected.

6) The definition of a habitual criminal seems to be identical in almost all the British Indian Provinces. Thus Rule 216 of Madras is almost identical in language with Rule 3 (h) of the Punjab and Rule 444 of the Central Provinces. Thus a uniform system seems to prevail in the Provinces with regard to the classification of habitual criminals.

7) Rule 216 of the Madras Manual

NOTE—Contn. Sheet.

D 04165—GPB—55,000—23-10-41

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reads as follows —

"The following persons shall be liable to be classified as "habitual criminals", namely, —

(i) any person convicted of an offence punishable under chaps XII, XVII and XVIII of the I. P. C, whose previous conviction or convictions taken in conjunction with the facts of the present case, show that he is by habit a robber, house-breaker, dacoit, thief or receiver of stolen property or that has habitually commits extortion, cheating, counterfeiting coin currency notes or stamps or forgery;

(ii) any person convicted of an offence ~~xxx~~ punishable under Chap XVI of the I.P.C, whose previous conviction or convictions, taken in conjunction with the facts of the present case, show that he habitually commits offences against the person;

(iii) any person convicted of any of the offences specified in (i) above whenever it appears from the facts of the case, even though no previous conviction has been proved, that he is by habit a member of a gang of dacoits, or of thieves or a dealer in slaves or in stolen property.

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Cr. P. C.
Section 109 — Security for good behaviour from Vagrants & suspected persons.
Section 110 — Security for good behaviour from habitual offenders
Section 123 — Imprisonment in default of furnishing security

(iv) any persons committed to or detained in prison under section 123 (read with section 109 or section 110) of the Code of Criminal Procedure

(v) any member of a criminal tribe, subject to the discretion of the Provincial Govt;

(vi) any person convicted of an offence and sentenced to imprisonment under the corresponding sections of the I.P.C. and the Code of Criminal Procedure [in British India or the] as applied by orders under the Indian Foreign Jurisdiction Orders in Council, 1902, or by the authority of any Prince or States in India]

as in force in the Mysore State.

omit

[(vii) any person convicted by a court or tribunal acting outside India under the general or special authority of His Majesty of an offence which would have rendered him liable to be classified as a habitual criminal if he had been convicted in a court established in British India.]

Explanation:— For the purposes of this definition the word "conviction" shall include an order made under section 118 read with section 110 of the Criminal Procedure Code."

4) The adoption of this rule as suggested by the Committee would bring over system of

NOTE—Contn. Sheet.

WD 04155—GPB—55,000—23-10-41

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classifications on as per with the British Indian system, and remove the deficiencies in the existing rule pointed out by the Committee. In order to make this rule suitable to Mysore, clauses vi and vii may have to be omitted.

(vi) must be omitted
only (vii) may be omitted
22/1/42

9/ As regards the giving of an opportunity to the persons affected ~~for~~ to apply for a revision of the classifying authority, the I. G. of Prisons recommends the adoption of Rule 214 of the Madras Manual - This rule reads as follows -

"(1) The classification of a convicted person as a habitual criminal should ordinarily be made by the convicting Court, but if the convicting Court omits to do so, such classification may be made by the District Magte, or in the absence of an order by the convicting Court or District Magte, and pending the result of a reference to the Dist Magte, by the officers in charge of the jail where such convicted person is confined:

Provided that any person classed as a habitual ~~prisoner~~ criminal may apply for a revision of the order.

(2) The convicting Court or the Dist Magte may, for reasons to be recorded in writing, direct that any

Serial No.

convicted persons or any persons committed to or detained in prison under section 123 read with section 109 or section 110 of the Cr. P. C., shall not be classed as a habitual criminal and may revise such direction

(3) Convicting courts or District Magles as the case may be may revise their own classifications, and the Dist Magle may alter any classification of a prisoner made by a convicting court or any other authority provided that the alteration is made on the basis of facts which were not before ~~the~~ such court or authority.

Note — The expression "Dist Magle" wherever it occurs in paragraph (1) (2) and (3) above means the Dist Magle of the Dist in which the criminal was convicted, committed or detained

(4) Every habitual criminal shall as far as possible be confined in a special jail in which no prisoners other than habitual criminals shall be kept.

(5) Rule 203 of our Manual also ~~provides~~ ~~for the~~ vests the convicting courts and the Dist Magles with powers of classification. But the Madras rule quoted above which is identical

NOTE—Contn. Sheet.

WD 04155—GPB—55,000—28-10-41

8) Reforms PRISONS 3824

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NO. 6357

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7412

in terms with the Punjab and the Central Provinces Rule is more comprehensive and provides an opportunity for the persons affected to apply for as reversion. This rule may perhaps be adopted as suggested by the A. G. of Prisons. Sub-rule (4) of the rule may have to be omitted as there does not appear to be any idea of opening a separate jail for habituals at present

10/1/42

Law Secy)

12) No objection with have the consideration when arrangements for separate detention of habituals

SECY. LAW DEPT. 10 JAN. 1942 GOVT OF MYSORE

22/1

11) R. 203 of Our Jail Manual R 216 and may be brought in line with R. 217 of the Madras Jail Manual and the Sub Cl. (4) of R 217

Minister for Law.

Hm 2 12/1/42

12/1/42

Dewan)

22/1

13) 25/1/42

Hm 2 26.1.42 29/1/42

PRISONS 157 42 (9

Reforms

detention of habitual

General and Revenue Secretariat | File No. | of 194 | [App. F. III—2

Serial No.

1) Draft G.O is submitted for appl

2) Please put up draft as revised

3) Revised draft put up for approval

4) Law Secy
Law Minister

5) The High Court also may be consulted on the draft, as the matter relates to Cr. Court Law matters

G.O.No. P 142 P 41 dated 18/6/42.

C 1537
41-42

6) Forwarded with compliments to the Registrar High Court of Mysore for favour of obtaining the views of the Judges of the High Court

By order

Secretary to Govt
Law Dept

17/6.

High Court of Mysore,
Bangalore 7 Septr., 1942.

D1:Dis No. 85 /42-43.

1) Returned with compliments together with copies of the minutes of the Judges of the High Court on the subject

REGISTRAR.

GOVT. LAW DEPT. 4794 JUN 16 1942 GOVT OF MYSORE

GOVT. LAW DEPT. 4794 27 MAY 1942 GOVT OF MYSORE

HIGH COURT 18 JUN 1942 OF MYSORE

GOVT. LAW DEPT. 2698 7 SEP 1942 GOVT OF MYSORE

NOTE—Contn. Sheet.

WD 04165—GPB—55,000—23-10-41

10) ii) Prison Reforms— detention of habitual Criminals

Printed Pamphlet No. [illegible] 5

Proj File No. [illegible] of 194 2 — General and Revenue Secretariat.

Serial No.

22) The Judges of the High Court suggest certain modification to para 3 of the proviso to the proposed rule 203 (v) in the draft

Submitted for orders with reference to para 19 of the notes supra

11/9/12

The views of the High Court on the draft rules are as follows:

1. Rule 203(v) - This Clause enumerates "any member of a Criminal Tribe, subject to the Discretion of the Government" as being liable to be classed as a habitual criminal.

The Chief Justice observes that he is not sure what these words mean, and the other Judges agree with him.

Draft Rule 203(v) is a reproduction of Rule 216(v) of the Madras Rules. The phraseology of the corresponding rules in the Bengal and Punjab Jail Codes is also similar.

Under this rule every member of a criminal tribe who comes into the Jail would not automatically be liable to be classed as a habitual as at present, but some discretion is given to the Government, apparently to prescribe the conditions under which members of criminal tribes would render themselves ~~have~~ liable to be classed as habituals. In exercise of this discretion

Serial No.

discretion the Punjab Government have issued instructions to the effect that a member of a Criminal tribe under this rule means a registered member of a criminal tribe who is convicted of any of the offences specified in rule 28 of the rules under the Criminal Tribes Act, Viz,—

a) Section 109 or 110 of the Criminal Procedure Code:

b) non-bailable offences described in Chapters XII and XVIII of the Indian Penal Code;

c) offences under the Criminal Tribes Act, 1911, unless the convicting Magistrate otherwise directs.

The draft rule may accordingly be retained, and similar instructions issued, after consulting the Inspector General of Police, prescribing the condition which would render members of the criminal tribes liable to be classed as habituals.

2. Rule 204(3)-- This rule provides that convicting courts or District Magistrates as the case may be may revise their own classifications, and the District Magistrate may alter any classification of a prisoner made by a convicting Court or any other authority, provided that the alteration is made on the basis of facts which were not before such court or authority

In respect of this rule three suggestions have been made.

Firstly, it is pointed out that the word "not" has been omitted in the proviso to the rule. This is an obvious slip and will be rectified.

Secondly,

NOTE—Cont. Sheet.

WD 04155--GPB—55,000—28-10-41

Serial No.

Secondby, the Chief Justice and all the other Judges are of opinion that it should be made clear that if a person classified as a habitual offender wishes to apply for revision of that classification, it is to the authority which made the classification that he must apply. He presumes that such is the intention, but he thinks that it should be made clear. Adl-ul-Mulk Mr. Abdul Ghani,J. observes that so long as the application for revision is made to the convicting court there is no trouble; but when the application is made to a District Magistrate when the convicting court is the Court of an Assistant Sessions Judge or of a Sessions Judge or even the High Court, the position becomes anomalous; and that the rule therefore requires modification so as to confine the revisional powers of the District Magistrate to the classification made by himself or by Magistrates subordinate to him.

The Indian Jails Committee of 1920 proposed in their draft rules on this subject that "convicting Courts or District Magistrates, as the case may be, may revise their own classifications, and the District Magistrate may revise the classifications of any Magistrate subordinate to himself; or of the Superintendent". This draft, however, was not adopted by the Provincial Governments, and a rule similar in terms to our draft rule has been adopted which is likely to leads to the anomoly pointed out by the High Court. The reasons for doing so are not apparent. If it is desired to do away with this

This may be adopted 30-4 N.V.

anomoly,

Serial No.

anomoly, the draft proposed by the Indian Jails Committee may be adopted.

-- Thirdly, Adl-ul-Mulk Mr. Justice C. A. Ghani suggests that the words "provided that the alteration is made on the basis of facts which were not before such court or authority" may be omitted, and the words "for reasons to be recorded in writing" substituted in their place. Otherwise the scope of revision he thinks, may be unduly restricted. Rajadharmaprasakta Mr. Justice A. R. Nageswara Iyer and Rajadharmaprasakta Mr. Justice T. Singaravalu Mudaliar and Mr. Venkatarangaiengar, Judge agree with him.

An enlargement of the scope of revision, however, may lead to the Court being called upon to revise its orders although no fresh facts subsequent to the passing of the original order have arisen. The proviso accordingly limits revision specifically to cases where facts have come into light which were not before the Court when it passed the original order, and where there is therefore a real need for revision.

3. Explanation to rule 203 -- This provides that for purposes of this definition the word "conviction shall include an order made under Section 118 read with Section 110 of the code of Criminal Procedure".

Rajadharmaprasakta Mr. Justice A. R. Nageswara Iyer, thinks that the omission to refer to section 109 of Criminal Procedure Code here is a slip, and that the intention seems to be that the word conviction shall include an order made under Section 118 or 110 of the Criminal Procedure Code.

The

NOTE—Cont. Sheet.

WD 04155--GPB—55,000—23-10-41

Serial No.

The reference to Section 109, as proposed, does not seem to be appropriate. The word "conviction" occurs in draft rules 203(i), (ii) and (iv), in all of which the previous conviction of the person concerned goes to show that he is given to the habitual commission of certain crimes. A reference to Section 109 of the Code of Criminal Procedure which deals with vagrants and not habitual offenders (Section 110) is out of place and therefore unnecessary.

4. Finally Abdul-ul-Mulk Mr. Justice C. A. Ghani, suggests that provision may be made, as in Madras, for classifying as a habitual a person convicted outside India in certain circumstances, in view of the influx of refugees and evacuees from outside India at present. Rajadharmaprasakta Mr. Justice Nageswara Iyer, - Rajadharmaprasakta Mr. Justice T. Singaravelu Mudaliar and Venkatarangaiengar, Judge agree with him.

A provision on the lines of rule 216(vii) of the Madras Rules may perhaps be added as rule 203(vii)--

"(vii) Any person convicted by a Court or tribunal acting outside India under the general or special authority of His Majesty of an offence which would have rendered him liable to be classified as a habitual criminal if he had been convicted in a court established in Mysore".

May be adopted
Ans 30-4-42

JNN 26/9

Law Secy

please peruse the draft as suggested above

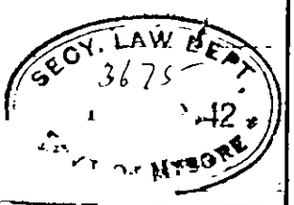
Ans
29-9-42

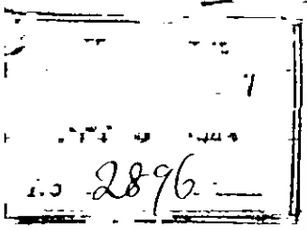
Prison Reforms

Definition of the term 'Habitual criminal' 15

General and Revenue Secretariat R. A. & L. C. | File No. of 193 | [App. F. III–2

Serial No.





As revised draft is submitted

11/10

Law Secy)

The draft is framed in view of the suggestions made by the learned Judges of the High Court except the one made by Mysore Bar Assn regarding the deletion of S. 109 Cr.P.C. in the Explanation as the word 'conviction' appearing in the explanation refers to the order of Magistrate & Magistrate is not competent to pass order against whom action is taken under S. 109 Cr.P.C.

As

2-11-54

Mundargi

~~The Reference of Sec 109 Cr.P.C should be omitted from 203 (iii) or added in the Explanation Retaining it at one~~

The omission of Sec 109 Cr.P.C in the Explanation is reasonable. It means that a person previously detained under Sec 123

NOTE—Contn. Sheet.

16

Pri File No. C 9 of 1942

General and Revenue Secretariat R. A. & L. C.

Serial No.

read with 109 Cr.P.C. may not be treated as
as having had a previous Conviction for classifying
him as a habitual. The mention of this
section in Para 203(iii) Enables a person
to be detained being classed as a habitual ~~having~~
~~been~~ Committed. in case the previous history justifies
such a course. In other words,
a person Committed as a vagrant or Suspect
may be treated as a habitual ~~detenu~~ if
his history justifies it, but because
a person is so Committed, he should
not be treated as a habitual Merely he is
under Sec 109 Cr.P.C.
again so Committed, simply because
he had been previously Committed to
prison under that Same Section.

Papers appd

Sec
Home
NWP
3/10

B.

To

The I. G. of Prisons 21
" Registrar High Court
" Dy Commrs of Distts
No. F. 2580-90 dated 6th Octr 942

Enc. to D.I.Bio. No.85/42-43 dated 7.9.42 (15/1/42 pt 8 42)

17

MINUTES OF THE JUDGES.

THE CHIEF JUSTICE:--

I do not think we need object to the new rules proposed.

But I am not sure what "any member of a Criminal Tribe, subject to the discretion of the Government" means. And I think it ~~shall~~ should be made clear that, if a person classified as a habitual offender wishes to apply for revision of that classification, it is to the authority which made the classification that he must apply. I presume that is the intention; but I think it should be made clear.

The word "not" has been omitted by an obvious slip in the last line of draft but seven.

ADL-UL-MULK MR.JUSTICE ABDUL GHANI:--

I agree with the Chief Justice. So long as the application for revision is made to the convicting Court there is no trouble. But when the application is made to a District Magistrate when the convicting Court is the Court of an Assistant Sessions Judge or of a Sessions Judge or even the High Court, the position becomes anomolous. Para (3) of the proviso to the proposed rule 204 would require modification so as to confine the revisional powers of the District Magistrate to classifications made by himself or by Magistrates subordinate to him. The word 'not' is omitted as pointed out by the

Chief

Chief Justice (see rule 217 of Madras from which the proposed rule is borrowed). It may be desirable, perhaps, to replace the words 'provided that the alteration..... Court or authority in para 3 of the proviso by the words 'for reasons to be recorded in writing' as in para (2) above it. Otherwise the scope of revision may be undul restricted.

The secretariat notes disclose that in Madras provision is made for classifying as a habitual a person convicted outside India in certain circumstances. A similar provision may be included in Mysore also, considering the influx of refugees and evacuees from outside India at present.

RAJADHARMAPRASAKTA MR.JUSTICE NAGESVARA IYER:--

I also agree with the opinion expressed by the Chief Justice.

The omission to refer to Section 109 Criminal Procedure Code in the explanation to ~~Section~~ rule 203 seems to be a slip. The intention seems to be that the word conviction shall include an order made under Section 118 read with Section 109 or Section 110 of the Code of Criminal Procedure.

It is desirable that the scope of revision is enlarged as suggested by Abdul Ghani J.

RAJADHARMAPRASAKTA MR.JUSTICE SINGARAVELU MUDALIAR

I agree with the opinions expressed by the Chief Justice and Abdul Ghani J.

MR.JUSTICE VENKATA RANGA IYENGAR:--

I also agree with the opinions expressed by

19

by the Chief Justice and Abdul Ghani J.

MR.JUSTICE SUBRAHMANYA AIYAR: --

I agree with the opinion of the Chief Justice.

N. Samasivayya
REGISTRAR.
CA
7/9/42

G. R. S. App. F VI—G 2]

SUBJECT .....

....

....

Draft as sent to the High Court

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *194*

Date of issue 194

Signed by ....

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette, Kannada Part ?

Section

File No.

Serial No.

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read—

Recommendations 30 and 31 of the ~~recommendations of the~~ Prison Reforms Committee regarding the definition of "Habitual Criminals" and the opportunity to be provided for every prisoner of being heard before he is classified as a habitual, and the views of the G.G. of Prisons thereon Order thereon—No.

Dated Bangalore May 1942.

The Prison Reforms Committee ~~point out~~ Consider that the definition of "habitual criminals" given in Rule 203 of the Jail Manual is defective in several respects and recommend that the amplified definition contained in Rule

Rule 216 of the Madras Prison and Reformatory Manual may be substituted for it and that every prisoner, should be given a reasonable opportunity of knowing, before he is classified as a habitual, the grounds on which such classification is proposed and of showing cause to the contrary and that he should be entitled to apply for a revision of the order of the classifying authority.

The Inspector General of Prisons supports the recommendations of the Committee. Government are pleased to accept the recommendations of the Committee, and direct accordingly that the following Rules be substituted for Rules 203 and 204 of the Jail Manual - Volume I (1940 Edition).

" 203 - The following persons shall be liable to be classified as "habitual criminals", namely :-

(i) any person convicted of an offence punishable under Chapters XII, XVII and

List of Enclosures

Copied by

Examined by

WD 087—GPB—40,000—14-11-40

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

XVIII of the Indian Penal Code as applied to Mysore, whose previous conviction or convictions taken in conjunction with the facts of the present case, show that he is by habit a robber, house-breaker, dacoit, thief or receiver of stolen property or that he habitually commits extortion, cheating, counterfeiting coin, currency notes or stamps or forgery;

(ii) any person convicted of an offence punishable under Chapter XVI of the Indian Penal Code as applied to Mysore, whose previous conviction or convictions, taken in conjunction with the facts of the present case, show that he habitually commits offences against the person;

(iii) any person committed to or detained in prison under Section 123 (read with Section 109 or Section 110) of the Code of Criminal Procedure.

(iv) any person convicted of any of the

WD 03603—GPB—15,000—8-7-35

the offences specified in (i) above,

when it appears from the facts of the

case, even though no previous conviction

has been proved, that he is by habit a

member of a gang of dacoits, or of

thieves or a dealer in slaves or in

stolen property;

(v) any member of a Criminal tribe,

subject to the discretion of the

Government;

(vi) any person convicted of an

offence and sentenced to imprisonment

under the corresponding section of the

Indian Penal Code and the Code of

Criminal Procedure in British India

or as applied by order under the

Indian Foreign Jurisdiction Order in

Council, 1902, or by the authority of

any Prince or State in India.

Explanation :- For the purposes of this

definition the word "conviction" shall

include an order made under Section 118

read with Section 110 of the Code of

Criminal Procedure."

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

"204 (1) The classification of a convicte person as a habitual criminal should ordinarily be made by the convicting Court, but if the convicting Court omit to do so, such classification may be made by the District Magistrate, or in the absence of an order by the convicting Court or District Magistrate and pending the result of a reference to the District Magistrate, by the ~~officer-in-charge~~ Superintendent of the Jail where such convicted person is confined: Provided that any person classed as a habitual criminal may apply for a revision of the order.

(2) The convicting Court or the District Magistrate may, for reasons to be recorded in writing, direct that any convicted person or any person committed to or detained in prison under Section 123 read with Section 109 or Section 110 of the Code of Criminal Procedure, shall not

W D 03603—GPB—15,000—8-7-35

not be classed as a habitual criminal and may revise such direction.

(3) Convicting Courts or District Magistrates as the case may be may revise their own classifications, and the District Magistrate may alter any classification of a prisoner made by a convicting Court or any other authority, provided that the alteration is made on the basis of facts which were not before such Court or authority.)

Note. - The expression "District Magistrate" wherever it occurs in paragraphs (1), (2) and (3) above means the District Magistrate of the District in which the criminal was convicted, committed or detained.

Secretary to Government,
Law Department.

To

The Inspector General of Prisons in Mysore.

Cpg.

Ale

G. R. S. App. F VI—G 2

SUBJECT .....

.....

.....

Revised Draft

Diary No. of letter replied to .....

Section Pns

File No. 89-42

Serial No. 21 .

General and Revenue Secretariat

( )

the *194* .

Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue .. .. 6/10/.....1942.

Signed by ..... Dy. Dy. K. V. .....

Read—

Recommdndations 30 and 31 of the Prison Reforms Committee regarding the definition of "Habitual Criminals" and the opportunity to be provided for every prisoner of being heard before he is classified as a habitual, and the views of the Inspector General of Prisons thereon—

Order thereon—No P 2680-90

Dated Bangalore 6th Oct May 1942.

The Prison Reforms Committee consider that the definition of "habitual criminals" given in Rule 203 of the Jail Manual is defective in several respects and recommend that the amplified definition contained in Rule 216

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette. English Part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette. Kannada Part ?

Rule 216 of the Madras Prison and Reformatory Manual may be substituted for it, and that every prisoner, should be given a reasonable opportunity of knowing, before he is classified as a habitual, the grounds on which such classification is proposed and of showing cause to the contrary and that he should entitled to apply for a revision of the order of the classifying authority.

The Inspector General of Prisons supports the recommendations of the Committee. Government are pleased to accept the recommendations of the Committee, and direct accordingly that the following Rules be substituted for Rules 203 and 204 of the Jail Manual - Volume I (1940 Edition).

List of Enclosures

"203 - The following persons shall be liable to be classified as "habitual criminals", namely :-

Copied by

Examined by

(i) any person convicted of an offence punishable under Chapters XII, XVII and XVIII of the Indian Penal Code as applied

WD 087—GPB—40,000—14-11-40

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

applied to Mysore, whose previous conviction or convictions taken in conjuction with the facts of the present case, show that he is by habit a robber, house-breaker, dacoit, thief or receiver of stolen property or that he habitually commits extortion, cheating, counterfeiting coin, currency notes or stamps or forgery;

(ii) any person convicted of an offence punishable under Chapter XVI of the Indian Penal Code as applied to Mysore, whose previous conviction or convictions, taken in conjunction with the facts of the present case, show that he habitually commits offences against the person;

(iii) ay person committed to or detained in prison under Section 123 (read with Section 109 or Section 110) of the Code of Criminal Procedure;

(iv) any person convicted of any of the offences specified in (i) above, when it appears from the facts of the

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the case, even though no previous conviction has been proved, that he is by habit a member of a gang of docoits, or of thieves or a dealer in slaves or in stolen property; -

(v) any member of a Criminal tribe, subject to the discretion of the Government;

(vi) any person convicted of an offence and sentenced to imprisonment under the corresponding section of the Indian Penal Code and the Code of Criminal Procedure in British India or as applied by order under the Indian Foreign Jurisdiction Order in Council, 1902, or by the authority of any Prince or State in India.

Explanation:- For the purposes of this definition the word "conviction" shall include an order made under Section 118 read with Section 110 of the Code of Criminal Procedure

(vii) any person convicted by a Court or tribunal acting out side

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outside India under the general or special authority of His Majesty of an offence which would have rendered him liable to be classified as a habitual criminal if he had been convicted in a Court established in Mysore.''

"204 (1) - The Classification of a convicted person as a habitual criminal should ordinarily be made by the convicting Court, but if the convicting Court omits to do so, such classification may be made by the District Magistrate, or in the absence of an order by the convicting Court or District Magistrate, and pending the result of a reference to the District Magistrate, by the Superintendent of the Jail where such convicted person is confined:

Provided that any person classed as a habitual criminal may apply for a revision of the order

(2) The convicting Court or the District Magistrate may, for reasons to

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to be recorded in writing, direct that any convicted person or any person committed to or detained in prison under Section 123 read with Section 109 or Section 110 of the Code of Criminal Procedure, shall not be classed as a habitual criminal and may revise such direction.

(3) Convicting courts or District Magistrates, as the case may be, may revise their own classifications, and the District Magistrate may revise the classifications of any Magistrate subordinate to himself, or the Superintendent, provided that the alteration is made on the basis of facts which were not before the Superintendent or such court.

Note: - The expression "District Magistrate" wherever it occurs in paragraphs (1), (2) and (3) above means the District Magistrate of the District in which the criminal was convicted, committed or detained."

Secretary to Government,
Law Department.

To The Inspector General of Prisons in Mysore.
The Registrar, The High Court of Mysore.
The Deputy Commissioners of Districts.